

propriations shall continue in full force and effect, but hereafter obligations entered into and expenditures made pursuant thereto shall be subject to the provisions of this title."

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as a note under section 104 of this title.

§ 103. Federal-aid systems

(a) IN GENERAL.—For purposes of this title, the Federal-aid systems are the Interstate System and the National Highway System.

(b) NATIONAL HIGHWAY SYSTEM.—

(1) PURPOSE.—The purpose of the National Highway System is to provide an interconnected system of principal arterial routes which will serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations; meet national defense requirements; and serve interstate and interregional travel.

(2) COMPONENTS.—The National Highway System shall consist of the following:

(A) Highways designated as part of the Interstate System under subsection (e) and section 139 of this title.

(B) Other urban and rural principal arterials and highways (including toll facilities) which provide motor vehicle access between such an arterial and a major port, airport, public transportation facility, or other intermodal transportation facility. The States, in cooperation with local and regional officials, shall propose to the Secretary arterials and highways for designation to the National Highway System under this paragraph. In urbanized areas, the local officials shall act through the metropolitan planning organizations designated for such areas under section 134 of this title. The routes on the National Highway System, as shown on the map submitted by the Secretary to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate in 1991, illustrating the National Highway System, shall serve as the basis for the States in proposing arterials and highways for designation to such system. The Secretary may modify or revise such proposals and submit such modified or revised proposals to Congress for approval in accordance with paragraph (3).

(C) A strategic highway network which is a network of highways which are important to the United States strategic defense policy and which provide defense access, continuity, and emergency capabilities for the movement of personnel, materials, and equipment in both peace time and war time. Such highways may include highways on and off the Interstate System and shall be designated by the Secretary in consultation

with appropriate Federal agencies and the States and be subject to approval by Congress in accordance with paragraph (3).

(D) Major strategic highway network connectors which are highways that provide motor vehicle access between major military installations and highways which are part of the strategic highway network. Such highways shall be designated by the Secretary in consultation with appropriate Federal agencies and the States and subject to approval by Congress in accordance with paragraph (3).

(3) APPROVAL OF DESIGNATIONS.—

(A) PROPOSED DESIGNATIONS.—Not later than 2 years after the date of the enactment of this section, the Secretary shall submit for approval to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a proposed National Highway System with a list and description of highways proposed to be designated to the National Highway System under this subsection and a map showing such proposed designations. In preparing the proposed system, the Secretary shall consult appropriate local officials and shall use the functional reclassification of roads and streets carried out under subsection (c) of section 1006 of the Intermodal Surface Transportation Efficiency Act of 1991.

(B) APPROVAL OF CONGRESS REQUIRED.—After September 30, 1995, no funds made available for carrying out this title may be apportioned for the National Highway System or the Interstate maintenance program under this title unless a law has been approved designating the National Highway System.

(C) MAXIMUM MILEAGE.—The mileage of highways on the National Highway System shall not exceed 155,000 miles; except that the Secretary may increase or decrease such maximum mileage by not to exceed 15 percent.

(D) EQUITABLE ALLOCATIONS OF HIGHWAY MILEAGE.—The Secretary shall provide for equitable allocation of highway mileage on the National Highway System among the States.

(4) INTERIM SYSTEM.—For fiscal years 1992, 1993, 1994, and 1995, highways classified as principal arterials by the States shall be treated as being on the National Highway System for purposes of this title.

(5) DESIGNATION OF NHS.—The National Highway System as submitted by the Secretary of Transportation on the map entitled "Official Submission, National Highway System, Federal Highway Administration", and dated November 13, 1995, is hereby designated within the United States, including the District of Columbia and the Commonwealth of Puerto Rico.

(6) MODIFICATIONS TO NHS.—

(A) IN GENERAL.—Subject to paragraph (7), the Secretary may make modifications to the National Highway System that are proposed by a State or that are proposed by the

State and revised by the Secretary if the Secretary determines that each of the modifications—

(i) meets the criteria established for the National Highway System under this title; and

(ii) enhances the national transportation characteristics of the National Highway System.

(B) COOPERATION.—In proposing modifications under this paragraph, a State shall cooperate with local and regional officials. In urbanized areas, the local officials shall act through the metropolitan planning organizations designated for such areas under section 134.

(7) TRANSITIONAL RULES FOR INTERMODAL CONNECTORS.—

(A) REQUIRED SUBMISSION.—Not later than 180 days after the date of the enactment of the National Highway System Designation Act of 1995, the Secretary shall submit for approval to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives modifications to the National Highway System that are proposed by a State or that are proposed by the State and revised by the Secretary and that consist of connectors to major ports, airports, international border crossings, public transportation and transit facilities, interstate bus terminals, and rail and other intermodal transportation facilities.

(B) COOPERATION.—Paragraph (6)(B) shall apply to modifications proposed by a State under this paragraph.

(C) ELIGIBILITY.—

(i) INITIAL APPROVAL BY LAW.—Modifications proposed under subparagraph (A) may take effect only if a law has been enacted approving such modifications.

(ii) INTERIM ELIGIBILITY.—Notwithstanding clause (i), a project to construct a connector to an intermodal transportation facility described in subparagraph (A) shall be eligible for funds apportioned under section 104(b)(1) for the National Highway System if the Secretary finds that the project is consistent with criteria developed by the Secretary for construction of such connectors.

(iii) PERIOD OF ELIGIBILITY.—A project which is eligible under clause (ii) for funds apportioned under section 104(b)(1) shall remain eligible for such funds pursuant to clause (ii) only until the date of the enactment of a law described in clause (i).

(D) MODIFICATIONS AFTER INITIAL APPROVAL.—After the date of the enactment of a law described in subparagraph (C)(i), a modification consisting of a connector to an intermodal transportation facility described in subparagraph (A) may be made in accordance with paragraph (6).

(8) CONGRESSIONAL HIGH PRIORITY CORRIDORS.—Upon the completion of feasibility studies, the Secretary shall add to the Na-

tional Highway System any congressional high priority corridor or any segment thereof established by section 1105 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2031–2037) which was not identified on the National Highway System designated by paragraph (5).

[(c), (d) Repealed. Pub. L. 102-240, title I, § 1006(b)(1), Dec. 18, 1991, 105 Stat. 1925.]

(e) INTERSTATE SYSTEM.—

(1) DESIGNATION; MILEAGE LIMITATION.—The Interstate System shall be designated within the United States, including the District of Columbia, and, except as provided in paragraphs (2) and (3) of this subsection, it shall not exceed forty-one thousand miles in total extent. It shall be so located as to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers, to serve the national defense, and to the greatest extent possible, to connect at suitable border points with routes of continental importance in the Dominion of Canada and the Republic of Mexico. The routes of this system, to the greatest extent possible, shall be selected by joint action of the State highway departments of each State and the adjoining States, subject to the approval by the Secretary as provided in subsection (f) of this section. All highways or routes included in the Interstate System as finally approved, if not already coincident with the primary system, shall be added to said system without regard to the mileage limitation set forth in subsection (b) of this section. This system may be located both in rural and urban areas.

(2) MODIFICATIONS.—In addition to the mileage authorized by the first sentence of paragraph (1) of this subsection, there is hereby authorized additional mileage for the Interstate System of five hundred miles, to be used in making modifications or revisions in the Interstate System as provided in this paragraph. Upon the request of a State highway department the Secretary may withdraw his approval of any route or portion thereof on the Interstate System within that State selected and approved in accordance with this title, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System (including urban routes necessary for metropolitan transportation) and will not be constructed as a part of the Interstate System, and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by such route or portion thereof. After the Secretary has withdrawn his approval of any such route or portion thereof the mileage of such route or portion thereof and the additional mileage authorized by the first sentence of this paragraph shall be available for the designation of interstate routes or portions thereof as provided in this subsection. The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph. The Secretary shall not designate any Interstate route or portion thereof under authority of this

paragraph after the date of enactment of the Federal Aid Highway Act of 1978.

(3) **ADDITIONAL MILEAGE FOR IMPROVED EFFICIENCY.**—In addition to the mileage authorized by paragraphs (1) and (2) of this subsection, there is hereby authorized additional mileage of not to exceed 1,500 miles for the designation of routes in the same manner as set forth in paragraph (1), in order to improve the efficiency and service of the Interstate System to better accomplish the purposes of that System.

(4) **INTERSTATE SUBSTITUTE PROGRAM.**—

(A) **WITHDRAWAL OF APPROVAL.**—Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw approval of any route or portion thereof on the Interstate System which was selected and approved in accordance with this title, if the Secretary determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System and if the Secretary receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by the route or portion thereof.

(B) **SUBSTITUTE PROJECTS.**—When the Secretary withdraws approval under this paragraph, a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as that cost is included in the latest Interstate System cost estimate approved by Congress, or up to and including the 1983 interstate cost estimate, whichever is earlier, subject to increase or decrease, as determined by the Secretary based on changes in construction costs of the withdrawn route or portion thereof as of the date of approval of each substitute project under this paragraph, or the date of approval of the 1983 interstate cost estimate, whichever is earlier, shall be available to the Secretary to incur obligations for the Federal share of either public mass transit projects involving the construction of fixed rail facilities or the purchase of passenger equipment including rolling stock, for any mode of mass transit, or both, or highway construction projects on any public road, or both, which will serve the area or areas from which the interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the area or areas to be served, and which are selected by the Governor or the Governors of the State or the States in which the withdrawn route was located if the withdrawn route was not within an urbanized area or did not pass through and connect urbanized areas, and which are submitted by the Governors of the States in which the withdrawn route was located. Each project constructed under this paragraph on a Federal-aid system shall be subject to the provisions of this title applicable to such system. Each project constructed under this paragraph not on a Federal-aid system shall be subject to the provisions of this title applicable to projects on the Federal-aid secondary system.

(C) **DEADLINE FOR WITHDRAWAL.**—The Secretary shall not approve any withdrawal of a

route under this paragraph after September 30, 1983—

(i) except that with respect to any route which on November 6, 1978, is under judicial injunction prohibiting its construction the Secretary may approve withdrawals until September 30, 1986, and

(ii) except that with respect to any route which on May 12, 1982, is under judicial injunction prohibiting its construction, the Secretary may approve withdrawals on such route until September 30, 1985.

(D) **PROJECT APPROVAL; FEDERAL SHARE.**—Approval by the Secretary of the plans, specifications, and estimates for a substitute project shall be deemed to be a contractual obligation of the Federal Government. The Federal share of each substitute project shall not exceed 85 percent of the cost thereof.

(E) **AVAILABILITY OF FUNDS FOR SUBSTITUTE PROJECTS.**—

(i) **TIME PERIOD.**—The sums apportioned and the sums allocated under this paragraph for public mass transit projects and for highway construction projects in a State shall remain available for obligation in such State for the fiscal year for which apportioned or allocated, as the case may be, and for the succeeding fiscal year. In the case of funds authorized to be appropriated for substitute transit projects under this paragraph for fiscal year 1993 and for substitute highway projects under this paragraph for fiscal year 1995, such funds shall remain available until expended.

(ii) **REAPPORTIONMENT OR REALLOCATION.**—Any sums which are apportioned or allocated to a State and are unobligated (other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a substitute project which has been submitted by the State to the Secretary for approval) at the end of the period of availability established by clause (i) shall be apportioned or allocated, as the case may be, among those States which have obligated all sums (other than such an amount) apportioned or allocated, as the case may be, to them. Such reapportionments shall be in accordance with the latest approved or adjusted estimate of the cost of completing substitute projects, and such reallocations shall be at the discretion of the Secretary.

(F) **ADMINISTRATION OF TRANSIT FUNDS.**—The sums obligated for mass transit projects under this paragraph shall become part of, and be administered through, the Urban Mass Transportation Fund.

(G) **AUTHORIZATION OF APPROPRIATIONS FOR HIGHWAY PROJECTS.**—For the fiscal year ending September 30, 1983, \$257,000,000 shall be available out of the Highway Trust Fund for expenditure at the discretion of the Secretary for projects under highway assistance programs. There shall be available, out of the Highway Trust Fund (other than the Mass Transit Account), to the Secretary for

expenditure under this paragraph for projects under highway assistance programs \$700,000,000 per fiscal year for each of fiscal years 1984 and 1985, \$693,825,000 for fiscal year 1986, \$740,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991,¹ \$240,000,000 per fiscal year for each of fiscal years 1992, 1993, 1994, and 1995. Such sums may be obligated for transit substitute projects under this paragraph.

(H) DISTRIBUTION OF SUBSTITUTE HIGHWAY FUNDS.—

(i) BETWEEN DISCRETIONARY AND APPORTIONED PROGRAMS.—Subject to section 149(d) of the Federal-Aid Highway Act of 1987, 25 percent of the funds made available by subparagraph (G) for each of fiscal years 1984, 1985, 1986, 1987, 1988, 1989, 1990, and 1991 for substitute highway projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 75 percent of such funds shall be apportioned in accordance with cost estimates approved by Congress or adjusted by the Secretary. For each of fiscal years 1992, 1993, 1994, and 1995, all funds made available by subparagraph (G) shall be apportioned in accordance with cost estimates adjusted by the Secretary.

(ii) FISCAL YEARS 1985, 1986, AND 1987 APPORTIONMENTS.—The Secretary shall make a revised estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives within 10 days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects for fiscal years 1985, 1986, and 1987.

(iii) FISCAL YEARS 1988–1995 APPORTIONMENTS.—The Secretary shall make a revised estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of the enactment of the Federal-Aid Highway Act of 1987. Upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects for fiscal year 1988. If such estimate is not approved by Congress by September 30, 1987, the Secretary shall adjust such estimate in accordance with this clause and use the Federal share of the adjusted estimate in making apportionments for fiscal year 1988. The Secretary shall adjust such estimate annually thereafter in accordance with this clause and shall use the Federal share of such adjusted estimate in making apportionments for substitute highway projects for fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995. The adjustments required by this clause shall reflect previous withdrawals of interstate segments, changes in State estimates in the

division of funds between substitute highway and transit projects, amounts made available in prior fiscal years, and the availability and reappropriation of funds under subparagraph (E).

(I) AUTHORIZATION OF APPROPRIATIONS FOR TRANSIT PROJECTS.—There are authorized to be appropriated for liquidation of obligations incurred for substitute transit projects under this paragraph the sums provided in section 4(g)² of the Federal Transit Act.

(J) DISTRIBUTION OF SUBSTITUTE TRANSIT FUNDS.—

(i) BETWEEN DISCRETIONARY AND APPORTIONED PROGRAMS.—Fifty percent of the funds appropriated for each fiscal year beginning after September 30, 1983, and ending before October 1, 1991³ for carrying out substitute transit projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 50 percent of such funds shall be apportioned in accordance with cost estimates approved by Congress or adjusted by the Secretary. 100 percent of funds appropriated for each of fiscal years 1992 and 1993 shall be apportioned in accordance with cost estimates adjusted by the Secretary.

(ii) FISCAL YEARS 1985, 1986, AND 1987 APPORTIONMENTS.—The Secretary shall make a revised estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives within 10 days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for fiscal years 1985, 1986, and 1987.

(iii) FISCAL YEARS 1988–1993 APPORTIONMENTS.—The Secretary shall make a revised estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of the enactment of the Federal-Aid Highway Act of 1987. Upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for fiscal year 1988. If such estimate is not approved by Congress by September 30, 1987, the Secretary shall adjust such estimate in accordance with this clause and use the Federal share of the adjusted estimate in making apportionments for fiscal year 1988. The Secretary shall adjust such estimate annually thereafter in accordance with this clause and shall use the Federal share of such adjusted estimate in making apportionments for substitute transit projects for fiscal years 1989, 1990, 1991, 1992, and 1993. The adjustments required by this clause shall reflect previous withdrawals of Interstate segments, changes in State estimates in the division of funds be-

¹ So in original. Probably should be “, and”.

² See References in Text note below.

³ So in original. Probably should be followed by a comma.

tween substitute highway and transit projects, amounts made available in prior fiscal years, and the availability and re-apportionment of funds under subparagraph (E).

(K) REDUCTION OF INTERSTATE APPORTIONMENT.—

(i) IN GENERAL.—Unobligated apportionments for the Interstate System in any State where a withdrawal is approved under this paragraph shall, on the date of such approval, be reduced in the proportion that the Federal share of the cost of the withdrawn route or portion thereof bears to the Federal share of the total cost of all interstate routes in that State as reflected in the latest cost estimate approved by the Congress.

(ii) EXCEPTION.—In any State where the withdrawal of an interstate route or portion thereof has been approved under this section prior to the date of the enactment of the Federal-Aid Highway Act of 1976, the unobligated apportionments for the Interstate System in that State on such date of enactment shall be reduced in the proportion that the Federal share of the cost to complete such route or portion thereof, as shown in the latest cost estimate approved by Congress prior to such approval of withdrawal, bears to the Federal share of the cost of all interstate routes in that State, as shown in such cost estimate; except that the amount of such proportional reduction shall be credited with the amount of any reduction in such State's Interstate apportionment which was attributable to the Federal share of any substitute project approved under this paragraph before such date of enactment.

(L) APPLICABILITY OF CHAPTER 53 OF TITLE 49.—

(i) SUPPLEMENTARY FUNDS.—Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to chapter 53 of title 49.

(ii) LABOR PROTECTION.—The provisions of section 5323(a)(1)(D) of title 49 shall apply in carrying out this paragraph.

(M) LIMITATION ON INTERSTATE DESIGNATIONS.—After the date of the enactment of the Federal-Aid Highway Act of 1978, the Secretary may not designate any mileage as part of the Interstate System pursuant to this paragraph or under any other provision of law. The preceding sentence shall not apply to a designation made under section 139 of this title.

(N) OPEN TO TRAFFIC REQUIREMENT.—After September 30, 1979, the Secretary shall not withdraw his approval under this paragraph of any route or portion thereof on the Interstate System open to traffic before the date of the proposed withdrawal. Any withdrawal of approval of any such route or portion thereof before September 30, 1979, is hereby determined to be authorized by this paragraph.

(O) LIMITATION ON SUBSTITUTION FOR STATUTORILY DESIGNATED ROUTES.—Any route or segment which was statutorily designated after March 7, 1978, to be on the Interstate System shall not be eligible for withdrawal or substitution under this subsection.

(P) RIGHT-OF-WAY PAYBACK.—

(i) ENFORCEMENT.—Of sums apportioned or allocated under this paragraph to a State, the Secretary shall not obligate for projects in such State an amount equal to the amount of Federal funds expended to purchase the right-of-way for any withdrawn route or portion thereof if the right-of-way is not first disposed of (or applied to a project in accordance with paragraph (5)(B), (6)(B), or (7)) by the State.

(ii) LIMITATION ON APPLICABILITY.—Clause (i) shall not apply to sums apportioned or allocated under this paragraph to a State for a fiscal year if the projected total amount of funds to be apportioned and allocated under this paragraph to such State in succeeding fiscal years exceeds the amount of Federal funds expended to purchase the right-of-way.

(iii) RELEASE OF FUNDS.—The Secretary may obligate for projects in a State under this paragraph any funds withheld from obligation in such State if the State repays an equivalent amount in accordance with paragraph (5)(B), (6)(B), or (7), as the case may be, or if the Secretary determines that such repayment is not required under such paragraph.

(5) LIMITATION ON REFUNDS FOR WITHDRAWALS BEFORE NOVEMBER 6, 1978.—Notwithstanding any other provision of law, in the case of any withdrawal of approval before November 6, 1978—

(A) upon the withdrawal of approval of any route or portion thereof on the Interstate System under this section, a State, subject to the approval of the Secretary, shall not be required to refund to the Highway Trust Fund any sums paid to the State for intangible costs;

(B) refund will not be required for the costs of construction items, materials, or rights-of-way of the withdrawn route or portion of the Interstate System which will be or have been applied (i) to a transportation project permissible under this title, (ii) to a public conservation or public recreation purpose, or (iii) to such other public purpose as may be determined by the Secretary to be in the public interest on condition that the State shall make assurances satisfactory to the Secretary that such construction items or materials or rights-of-way have been or will be so applied by the State of any political subdivision thereof to a project under clause (i), (ii), or (iii) within 10 years from the date of the withdrawal of approval.

(6) LIMITATION ON REFUNDS FOR WITHDRAWALS ON AND AFTER NOVEMBER 6, 1978.—Notwithstanding any other provision of law—

(A) in the case of any withdrawal of approval on or after November 6, 1978, of a route or portion thereof on the Interstate

System, a State, subject to the approval of the Secretary, shall not be required to refund to the Highway Trust Fund any sums paid to the State for intangible costs;

(B) in the case of any withdrawal of approval on or after November 6, 1978, of any route or portion thereof on the Interstate System under this section, a State shall not be required to refund to the Highway Trust Fund the costs of construction items, materials, or rights-of-way of the withdrawn route or portion thereof if such items, materials, and rights-of-way were acquired before November 6, 1978, if by the date of withdrawal of approval the Secretary has not approved the environmental impact statement required by the National Environmental Policy Act of 1969, and if such construction items, materials, or rights-of-way will be or have been applied (i) to a transportation project permissible under this title, (ii) to a public conservation or public recreation purpose, or (iii) to any other public purpose determined by the Secretary to be in the public interest on condition that the State gives assurances satisfactory to the Secretary that such construction items, materials, or rights-of-way have been or will be so applied by the State, or any political subdivision thereof, to a project under clause (i), (ii), or (iii) within ten years from the date of withdrawal of approval.

(7) **ADDITIONAL LIMITATION ON REFUNDS.**—In any case where a withdrawal of approval of a route or portion thereof on the Interstate System on or after November 6, 1978, does not come within the provisions of paragraph (6)(B) of this subsection, the State shall refund to the Highway Trust Fund the costs of construction items, materials, and rights-of-way of the withdrawn route or portion thereof, except that if the State gives assurances satisfactory to the Secretary that such items, materials, and rights-of-way have been or will be applied to a transportation project permissible under this title within ten years from the date of withdrawal of approval, the amount of such repayment shall be the difference between the amount received for such items, materials, and rights-of-way and the amount which would be received in accordance with the current Federal share applicable to the transportation project to which such items, materials, and rights-of-way were or are to be applied.

(8) **PROTECTION OF PROPERTY RIGHTS.**—Nothing in this subsection shall in any way alter rights under State law of persons owning property within the right-of-way immediately prior to such property being obtained by the State. The Federal share of the cost of property sold or otherwise transferred to previous owners under State law shall be refunded and credited to the unobligated balance of the State's apportionment for interstate highways.

(9) **LIMITATION ON FUNDING OF MODIFIED MILEAGE PROJECTS.**—Interstate mileage authorized for any State and withdrawn and transferred under the provisions of paragraph (2) of this subsection after the date of enactment of the Federal-Aid Highway Act of 1976, must be con-

structed by the State receiving such mileage as part of its Interstate System. Any State receiving such transfer of mileage may not, with respect to that transfer, avail itself of the optional use of Interstate funds under the second sentence of paragraph (4) of this subsection.

(f) The Secretary shall have authority to approve in whole or in part the Interstate System, as and when such systems or portions thereof are designated, or to require modifications or revisions thereof.

(g) The Secretary, on July 1, 1974, shall remove from designation as a part of the Interstate System each segment of such system for which a State has not notified the Secretary that such State intends to construct such segment, and which the Secretary finds is not essential to completion of a unified and connected Interstate System. Any segment of the Interstate System, with respect to which a State has not submitted by July 1, 1975, a schedule for the expenditure of funds for completion of construction of such segment or alternative segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and with respect to which the State has not provided the Secretary with assurances satisfactory to him that such schedule will be met, shall be removed from designation as a part of the Interstate System. No segment of the Interstate System removed under the authority of the preceding sentence shall thereafter be designated as a part of the Interstate System except as the Secretary finds necessary in the interest of national defense or for other reasons of national interest. This subsection shall not be applicable to any segment of the Interstate System referred to in section 23(a) of the Federal-Aid Highway Act of 1968.

(h) Notwithstanding subsections (e)(2) and (g) of this section, in any case where a segment of the Interstate System was a designated part of such System on June 1, 1973, and is entirely within the boundaries of an incorporated city and such city enters into an agreement with the Secretary to pay all non-Federal costs of construction of such segment, such segment shall be constructed.

(i) **ELIGIBLE PROJECTS FOR NHS.**—Subject to project approval by the Secretary, funds apportioned to a State under section 104(b)(1) for the National Highway System may be obligated for any of the following:

(1) Construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of such system.

(2) Operational improvements for segments of such system.

(3) Construction of, and operational improvements for, a Federal-aid highway not on the National Highway System and construction of a transit project eligible for assistance under chapter 53 of title 49—

(A) if such highway or transit project is in the same corridor as, and in proximity to, a fully access controlled highway designated to the National Highway System;

(B) if the construction or improvements will improve the level of service on the fully access controlled highway and improve regional travel; and

(C) if the construction or improvements are more cost effective than an improvement to the fully access controlled highway that has benefits comparable to the benefits which will be achieved by the construction of, or improvements to, the highway not on the National Highway System.

(4) Highway safety improvements for segments of the National Highway System.

(5) Transportation planning in accordance with sections 134 and 135.

(6) Highway research and planning in accordance with section 307.

(7) Highway-related technology transfer activities.

(8) Capital and operating costs for traffic monitoring, management, and control facilities and programs.

(9) Fringe and corridor parking facilities.

(10) Carpool and vanpool projects.

(11) Bicycle transportation and pedestrian walkways in accordance with section 217.

(12) Development and establishment of management systems under section 303.

(13) In accordance with all applicable Federal law and regulations, participation in wetlands mitigation efforts related to projects funded under this title, which may include participation in wetlands mitigation banks; contributions to statewide and regional efforts to conserve, restore, enhance and create wetlands; and development of statewide and regional wetlands conservation and mitigation plans, including any such banks, efforts, and plans authorized pursuant to the Water Resources Development Act of 1990 (including crediting provisions). Contributions to such mitigation efforts may take place concurrent with or in advance of project construction. Contributions toward these efforts may occur in advance of project construction only if such efforts are consistent with all applicable requirements of Federal law and regulations and State transportation planning processes.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 887; Pub. L. 86-70, §21(d)(1), June 25, 1959, 73 Stat. 145; Pub. L. 86-624, §17(b), (c), July 12, 1960, 74 Stat. 415; Pub. L. 87-866, §8(a), Oct. 23, 1962, 76 Stat. 1147; Pub. L. 90-238, Jan. 2, 1968, 81 Stat. 772; Pub. L. 90-495, §§14, 21, Aug. 23, 1968, 82 Stat. 822, 826; Pub. L. 91-605, title I, §§106(b), 124, Dec. 31, 1970, 84 Stat. 1716, 1729; Pub. L. 93-87, title I, §§109(a), 110(a), (b), 137, 148(a)–(c), (e), Aug. 13, 1973, 87 Stat. 255, 256, 268, 274; Pub. L. 93-643, §125, Jan. 4, 1975, 88 Stat. 2290; Pub. L. 94-280, title I, §§109, 110, 111(a), May 5, 1976, 90 Stat. 431, 433; Pub. L. 95-599, title I, §107(a), (b), (f)(1), Nov. 6, 1978, 92 Stat. 2694, 2695; Pub. L. 96-106, §§1, 2(a), (c), Nov. 9, 1979, 93 Stat. 796; Pub. L. 96-144, §2, Dec. 13, 1979, 93 Stat. 1084; Pub. L. 97-424, title I, §§107(a)–(c)(1), (d), (e), 108(f), Jan. 6, 1983, 96 Stat. 2101-2104; Pub. L. 100-17, title I, §103(b), (f)(1), Apr. 2, 1987, 101 Stat. 136, 141; Pub. L. 102-240, title I, §§1006(a), (b), (d), 1011, title III, §3003(b), Dec. 18, 1991, 105 Stat. 1923, 1925, 1935, 2088; Pub. L. 103-272, §5(f)(1), July 5, 1994, 108 Stat. 1374; Pub. L. 103-429, §§3(1), 7(a)(4)(B), Oct. 31, 1994, 108 Stat. 4377, 4389; Pub. L. 104-59, title I, §101, title III, §301(a), Nov. 28, 1995, 109 Stat. 569, 578; Pub. L. 104-287, §2, Oct. 11, 1996, 110 Stat. 3388.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (b)(3)(A), probably means the date of the enactment of Pub. L. 102-240, which amended this section and was approved Dec. 18, 1991.

Subsection (c) of section 1006 of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (b)(3)(A), is section 1006(c) of Pub. L. 102-240, which is set out below.

The date of the enactment of the National Highway System Designation Act of 1995, referred to in subsec. (b)(7)(A), is the date of enactment of Pub. L. 104-59, which was approved Nov. 28, 1995.

Section 1105 of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (b)(8), is section 1105 of Pub. L. 102-240, which amended section 105 of this title and enacted provisions establishing high priority corridors and segments, which are not classified to the Code.

The date of enactment of the Federal-Aid Highway Act of 1978, referred to in subsec. (e)(2), (4)(M), means the date of enactment of Pub. L. 95-599, which was approved Nov. 6, 1978.

Section 149(d) of the Federal-Aid Highway Act of 1987, referred to in subsec. (e)(4)(H)(i), is section 149(d) of Pub. L. 100-17, which is not classified to the Code.

The date of the enactment of the Federal-Aid Highway Act of 1987, referred to in subsec. (e)(4)(H)(iii), (J)(iii), is the date of enactment of title I of Pub. L. 100-17, which was approved Apr. 2, 1987.

Section 4(g) of the Federal Transit Act, referred to in subsec. (e)(4)(I), was section 4(g) of Pub. L. 88-365, July 9, 1964, 78 Stat. 304, as amended, which was classified to section 1603(g) of former Title 49, Transportation, prior to repeal by Pub. L. 102-240, title III, §3006(h)(1), Dec. 18, 1991, 105 Stat. 2090.

The date of enactment of the Federal-Aid Highway Act of 1976, referred to in subsec. (e)(4)(K)(ii), (9), means the date of enactment of title I of Pub. L. 94-280, which was approved May 5, 1976.

The National Environmental Policy Act of 1969, referred to in subsec. (e)(6), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

Section 23(a) of the Federal-Aid Highway Act of 1968, referred to in subsec. (g), is section 23(a) of Pub. L. 90-495, Aug. 23, 1968, 82 Stat. 827, which related to the District of Columbia and which is not classified to the Code.

The Water Resources Development Act of 1990, referred to in subsec. (i)(13), is Pub. L. 101-640, Nov. 28, 1990, 104 Stat. 4604. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 2201 of Title 33, Navigation and Navigable Waters, and Tables.

AMENDMENTS

1996—Subsec. (e)(4)(L). Pub. L. 104-287 substituted “CHAPTER 53 OF TITLE 49” for “FTA” in heading.

1995—Subsec. (b)(3)(C). Pub. L. 104-59, §101(b)(1), substituted “The” for “For purposes of proposing highways for designation to the National Highway System, the”.

Subsec. (b)(3)(D). Pub. L. 104-59, §101(b)(2), substituted “The” for “In proposing highways for designation to the National Highway System, the” and inserted “on the National Highway System” after “highway mileage”.

Subsec. (b)(5) to (8). Pub. L. 104-59, §101(a), added pars. (5) to (8).

Subsec. (i)(8). Pub. L. 104-59, §301(a), added par. (8) and struck out former par. (8) which read as follows: “Startup costs for traffic management and control if such costs are limited to the time period necessary to achieve operable status but not to exceed 2 years following the date of project approval, if such funds are not used to replace existing funds.”

1994—Subsec. (e)(4)(L)(i). Pub. L. 103-272, §5(f)(1)(A), as amended by Pub. L. 103-429, §7(a)(4)(B), substituted “chapter 53 of title 49” for “the Federal Transit Act”.

Subsec. (e)(4)(L)(ii). Pub. L. 103-272, §5(f)(1)(B), as amended by Pub. L. 103-429, §7(a)(4)(B), substituted “section 5323(a)(1)(D) of title 49” for “section 3(e)(4) of the Federal Transit Act”.

Subsec. (i)(3). Pub. L. 103-429, §3(1), substituted “chapter 53 of title 49” for “the Federal Transit Act”.

1991—Subsec. (a). Pub. L. 102-240, §1006(a), added subsec. (a) and struck out former subsec. (a) which established and continued four Federal-aid systems: primary, urban, secondary and Interstate.

Subsec. (b). Pub. L. 102-240, §1006(a), added subsec. (b) and struck out former subsec. (b) which related to Federal-aid primary system.

Subsecs. (c), (d). Pub. L. 102-240, §1006(b)(1), struck out subsecs. (c) and (d) which related to Federal-aid secondary system and Federal-aid urban system, respectively.

Subsec. (e)(4)(E)(i). Pub. L. 102-240, §1011(c), inserted provisions at end specifying that funds authorized to be appropriated for substitute transit projects for fiscal year 1993 and for substitute highway projects for fiscal year 1995 are to remain available until expended.

Subsec. (e)(4)(G). Pub. L. 102-240, §1011(a)(1), struck out “and” before “\$740,000,000”, inserted provisions relating to fiscal years 1992 through 1995 and inserted provisions authorizing obligation of sums for transit substitute projects.

Subsec. (e)(4)(H)(i). Pub. L. 102-240, §1011(a)(2)(A), inserted provisions at end relating to apportionment of funds for fiscal years 1992 through 1995.

Subsec. (e)(4)(H)(iii). Pub. L. 102-240, §1011(a)(2)(B), (C), substituted “1988-1995” for “1988, 1989, 1990, and 1991” in heading and “1991, 1992, 1993, 1994, and 1995” for “and 1991” in text.

Subsec. (e)(4)(I). Pub. L. 102-240, §3003(b), substituted “Federal Transit Act” for “Urban Mass Transportation Act of 1964”.

Subsec. (e)(4)(J)(i). Pub. L. 102-240, §1011(b)(1), (2), inserted “and ending before October 1, 1991” after “1983,” and provisions at end relating to apportionment of 100 percent of funds appropriated for fiscal years 1992 and 1993.

Subsec. (e)(4)(J)(iii). Pub. L. 102-240, §1011(b)(3), (4), substituted “1988-1993” for “1988, 1989, 1990, and 1991” in heading and substituted “1991, 1992, and 1993” for “and 1991” in text.

Subsec. (e)(4)(L). Pub. L. 102-240, §3003(b), substituted “FTA” for “UMTA” in heading and “Federal Transit Act” for “Urban Mass Transportation Act of 1964” in cls. (i) and (ii).

Subsec. (f). Pub. L. 102-240, §1006(b)(2), struck out “the Federal-aid primary system, the Federal-aid secondary system, the Federal-aid urban system, and” before “the Interstate System” and struck out at end “No Federal-aid system or portion thereof shall be eligible for projects in which Federal funds participate until approved by the Secretary.”

Subsec. (i). Pub. L. 102-240, §1006(d), added subsec. (i). 1987—Subsec. (e). Pub. L. 100-17, §103(f)(1)(A)–(D), (H)–(J), inserted heading, indented par. (1) and aligned such par. and pars. (2), (3), and (5) to (9) with par. (4), as amended, and inserted headings for pars. (1) to (3), (8), and (9).

Subsec. (e)(4). Pub. L. 100-17, §103(b), amended par. (4) generally, revising and restating as subpars. (A) to (P) provisions formerly contained in a single paragraph.

Subsec. (e)(5). Pub. L. 100-17, §103(f)(1)(E), (K), inserted heading, aligned subpars. (A) and (B) with subpar. (A) of par. (4), and substituted “withdrawal of approval.” for “withdrawal of approval; and” in subpar. (B).

Subsec. (e)(6). Pub. L. 100-17, §103(f)(1)(F), (K), inserted heading, aligned subpars. (A) and (B) with subpar. (A) of par. (4), and substituted “withdrawal of approval.” for “withdrawal of approval;” in subpar. (B).

Subsec. (e)(7). Pub. L. 100-17, §103(f)(1)(G), inserted heading and substituted “are to be applied.” for “are to be applied; and”.

1983—Subsec. (b)(1). Pub. L. 97-424, §108(f), substituted “Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands” for “or Puerto Rico” after “Hawaii, Alaska,”.

Subsec. (e)(4). Pub. L. 97-424, §107(a)(1), struck out eighth sentence and substituted provision relating to authorizations and apportionment of funds for fiscal years ending Sept. 30, 1983, through Sept. 30, 1986, and relating to substitute highway projects and substitute transit projects for provision that there were authorized to be appropriated for liquidation of the obligations incurred under this paragraph such sums as might be necessary out of the general fund of the Treasury.

Pub. L. 97-424, §107(a)(2), struck out sixth sentence and substituted provisions relating to the period of availability of sums apportioned under this paragraph and of sums available for obligation and the disposition of funds apportioned to a State and unobligated for provision that the sums available for obligation would remain available until obligated.

Pub. L. 97-424, §107(b), inserted at end provision that any route or segment thereof which was statutorily designated after March 7, 1978, to be on the Interstate System shall not be eligible for withdrawal or substitution under this subsection.

Pub. L. 97-424, §107(c)(1)(A), inserted “or up to and including the 1983 interstate cost estimate, whichever is earlier,” after “approved by Congress,” and before “subject to increase or decrease” in provision in second sentence relating to the action of the Secretary in withdrawing his approval under this paragraph.

Pub. L. 97-424, §107(c)(1)(B), struck out “the date of enactment of the Federal-Aid Highway Act of 1976 or” after “portion thereof as of”, and “whichever is later, and in accordance with the design of the route or portion thereof that is the basis of the latest cost estimate” after “substitute project under this paragraph,” in provision in second sentence relating to the action of the Secretary in withdrawing his approval under this paragraph.

Pub. L. 97-424, §107(c)(1)(C), inserted “or the date of approval of the 1983 interstate cost estimate, whichever is earlier,” after “approval of each substitute project under this paragraph” in provision in second sentence relating to the action of the Secretary in withdrawing his approval under this paragraph.

Pub. L. 97-424, §107(d), inserted provision in third sentence that except with respect to any route which on May 12, 1982, is under judicial injunction prohibiting its construction the Secretary may approve substitute projects and withdrawals on such route until Sept. 30, 1985.

Pub. L. 97-424, §107(e)(1), struck out “which is within an urbanized area or which passes through and connects urbanized areas within a State and” after “portion thereof on the Interstate System” in first sentence.

Pub. L. 97-424, §107(e)(2), substituted “which will serve the area or areas from which the interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the area or areas to be served, and which are selected by the Governor or the Governors of the State or the States in which the withdrawn route was located if the withdrawn route was not within an urbanized area or did not pass through and connect urbanized areas, and which are submitted by the Governors of the States in which the withdrawn route was located”, for “which will serve the urbanized area and the connecting nonurbanized area corridor from which the interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the urbanized area or area to be served, and which are submitted by the Governor of the State in which the withdrawn route was located”, after “section 103 of this title; or both,” in second sentence.

1979—Subsec. (e)(4). Pub. L. 96-144 provided that after Sept. 30, 1979, the Secretary shall not withdraw his approval under par. (4) of any route or portion thereof on

the Interstate System open to traffic before the date of the proposed withdrawal, and that any withdrawal of approval of any such route or portion thereof before Sept. 30, 1979, is determined to be authorized by par. (4).

Pub. L. 96-106, § 1, inserted provision that the preceding sentence not apply to a designation made under section 139 of this title.

Subsec. (e)(5). Pub. L. 96-106, § 2(a), inserted “, in the case of any withdrawal of approval before November 6, 1978” after “any other provision of law”.

Subsec. (e)(6) to (9). Pub. L. 96-106, § 2(c), added pars. (6) and (7) and redesignated former pars. (6) and (7) as (8) and (9), respectively.

1978—Subsec. (e)(2). Pub. L. 95-599, § 107(a)(1), substituted provisions relating to the deadline for designation of Interstate routes for provisions relating to maximum costs of all mileage and granting of preferences.

Subsec. (e)(4). Pub. L. 95-599, § 107(a)(2), (b), (f)(1)(A), substituted provision setting the maximum Federal share at 85 per cent of the cost of the substitute project for provision stating that the share would be determined in accordance with section 120 of this title, inserted provisions relating to deadline for approval by Secretary and designation of mileage, and struck out provision relating to withdrawal of approval.

Subsec. (e)(5) to (7). Pub. L. 95-599, § 107(f)(1)(B), (C), redesignated par. (5) as (7) and added pars. (5) and (6).

1976—Subsec. (e)(2). Pub. L. 94-280, §§ 109(a), 111(a), struck out from second sentence “prior to the enactment of this paragraph” after “with this title,” and in fourth sentence, substituted provision respecting limitation of cost to United States for aggregate of mileage for route withdrawals which read as follows: “or if the cost of any such withdrawn route was not included in such 1972 Interstate System cost estimate, the cost of such withdrawn route as set forth in the last Interstate System cost estimate before such 1972 cost estimate which was approved by Congress and which included the cost of such withdrawn route, increased or decreased, as the case may be, as determined by the Secretary, based on changes in construction costs of such route or portion thereof, which, (i) in the case of a withdrawn route the cost of which was not included in the 1972 cost estimate but in an earlier cost estimate, have occurred between such earlier cost estimate and the date of enactment of the Federal-Aid Highway Act of 1976, and (ii) in the case of a withdrawn route the cost of which was included in the 1972 cost estimate, have occurred between the 1972 cost estimate and the date of enactment of the Federal-Aid Highway Act of 1976, or the date of withdrawal of approval, whichever date is later, and in each case costs shall be based on that design of such route or portion thereof which is the basis of the applicable cost estimate” for “increased or decreased, as the case may be, as determined by the Secretary, based on changes in construction costs of such route or portion thereof as of the date of withdrawal of approval under this paragraph and in accordance with that design of such route or portion thereof which is the basis of such 1972 cost estimate.”

Subsec. (e)(4). Pub. L. 94-280, § 110(a), in revising par. (4), substituting provisions set out in text for prior provisions set out in note hereunder, among other changes: authorized the Secretary to withdraw approval of route or portion thereof on Interstate System which passes through and connects urbanized areas within a State and to incur obligations for Federal share of projects authorized under any highway assistance program under section 103 of this title; provided for determination of Federal share of substitute projects as provided in section 120 of this title applicable to the highway program of which the substitute project is a part; made specific reference to section 4 of, for prior general reference to, Urban Mass Transportation Act of 1964, as source of Federal share for mass transit projects; authorized sums available for obligation to remain available until obligated; made sums obligated for mass transit projects part of, to be administered through, Urban Mass Transportation Fund; authorized appropriations out of general fund of the

Treasury for liquidation of obligations incurred under this paragraph; made amended par. (4) effective Aug. 13, 1973; and deleted provisions making route withdrawn mileage available for designation on Interstate System in any other State, prohibition against obligation under this paragraph of general funds after June 30, 1981, and requirement that for nonhighway public mass transit project, the Secretary receive State assurance that public mass transportation system will fully utilize the proposed project.

Pub. L. 94-280, § 110(b), inserted provision for application of sums to a permissible transportation project when paid to a State for a route or portion of the Interstate System in event of withdrawal of approval for the route or portion instead of making of refund to Highway Trust Fund.

Subsec. (e)(5). Pub. L. 94-280, § 109(b), added par. (5).

1975—Subsec. (e)(2), (4). Pub. L. 93-643 inserted “, increased or decreased, as the case may be, as determined by the Secretary, based on changes in construction costs of such route or portion thereof as of the date of withdrawal of approval under this paragraph and in accordance with that design of such route or portion thereof which is the basis of such 1972 cost estimate” after “House Report Numbered 92-1443”.

1973—Subsec. (b). Pub. L. 93-87, § 148(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 93-87, § 148(b), (e), designated existing provisions as par. (1), inserted “access roads to airports,” after “local rural roads”, and added par. (2).

Subsec. (d)(1). Pub. L. 93-87, §§ 109(a), 148(c), authorized establishment of Federal-aid urban system in such other urban areas as the State highway department may designate, substituted “shall include high traffic volume arterial and collector routes, including access roads to airports and other transportation terminals” for “designed taking into consideration the highest traffic volume corridors, and the longest trips within such area and shall be selected so as to best serve the goals and objectives of the community as determined by the responsible local officials of such urbanized area based upon the planning process required pursuant to the provisions of section 134 of this title”, reenacted third sentence without change, inserted “to the extent feasible” in the text reading “Each route of the system to the extent feasible shall connect with another route”, substituted “Routes . . . shall be selected by the appropriate local officials so as to serve the goals and objectives of the community, with the concurrence of the State highway departments, and, in urbanized areas, also in accordance with the planning process under section 134 of this title” for “Routes . . . shall be selected by the appropriate local officials and the State highway departments in cooperation with each other subject to the approval of the Secretary as provided in subsection (f) of this section”, and inserted preceding last sentence “Designation of the Federal-aid urban system shall be subject to the approval of the Secretary as provided in subsection (f) of this section”, and designated provisions, as amended, as par. (1), respectively.

Subsec. (d)(2). Pub. L. 93-87, § 148(c), added par. (2).

Subsec. (e)(2). Pub. L. 93-87, § 137(a), substituted in first sentence “additional mileage for the Interstate System of five hundred miles” for “additional mileage for the Interstate System of two hundred miles”; in fourth sentence “1972 Interstate System cost estimate set forth in House Public Works Committee Print Numbered 92-29, as revised in House Report Numbered 92-1443” for “1968 Interstate System cost estimate set forth in House Document Numbered 199, Ninetieth Congress, as revised”; and in fifth sentence “preference, along with due regard for interstate highway type needs on a nationwide basis,” for “due regard”, respectively.

Subsec. (e)(4). Pub. L. 93-87, § 137(b), added par. (4).

Subsec. (g). Pub. L. 93-87, § 110(a), substituted first sentence reading “the Secretary, on July 1, 1974, shall remove from designation as a part of the Interstate System each segment of such system for which a State

has not notified the Secretary that such State intends to construct such segment, and which the Secretary finds is not essential to completion of a unified and connected Interstate System.” for “The Secretary, on July 1, 1973, shall remove from designation as a part of the Interstate System every segment of such System for which a State has not established a schedule for the expenditure of funds for completion of construction of such segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and with respect to which the State has not provided the Secretary with assurances satisfactory to him that such schedule will be met.”; deleted former second sentence reading “Nothing in the preceding sentence shall be construed to prohibit the substitution prior to July 1, 1973, of alternative segments of the Interstate System which will meet the requirements of this title.”; substituted “Any segment of the Interstate System, with respect to which a State has not submitted by July 1, 1975, a schedule for the expenditure of funds for completion of construction of such segment or alternative segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and with respect to which the State has not provided the Secretary with assurances satisfactory to him such schedule will be met,” for “Any segment of the Interstate System with respect to which a State has not submitted plans, specifications, and estimates for approval by the Secretary by July 1, 1975,” before “shall be removed from designation as a part of the Interstate System”; authorized the Secretary to designate as a part of the Interstate System any segment previously removed from the System when necessary in the interest of national defense or for other reasons of national interest; and made subsec. (g) inapplicable to any segment of the Interstate System referred to in section 23(a) of the Federal-Aid Highway Act of 1968.

Subsec. (h). Pub. L. 93-87, §110(b), added subsec. (h). 1970—Subsec. (a). Pub. L. 91-605, §106(b)(3), substituted “four” for “three” and added the urban system to the list of Federal-aid systems.

Subsecs. (b), (c). Pub. L. 91-605, §106(b)(1), substituted “subsection (f)” for “subsection (e)”.

Subsecs. (d), (e). Pub. L. 91-605, §106(b)(1), added subsec. (d), redesignated former subsec. (d) as (e) and substituted “subsection (f)” for “subsection (e)”. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 91-605, §106(b)(1), (2), redesignated former subsec. (e) as (f) and inserted reference to Federal-aid urban system.

Subsec. (g). Pub. L. 91-605, §124, added subsec. (g). 1968—Subsec. (d)(1). Pub. L. 90-495, §14(a), inserted provision making allowance for an exception in pars. (2) and (3) to the forty-one thousand mile total extent of the Interstate system.

Subsec. (d)(2). Pub. L. 90-495, §21, substituted “1968 Interstate System cost estimate set forth in House Document Numbered 199, Ninetieth Congress, as revised” for “1965 Interstate System cost estimate set forth in House Document Numbered 42, Eighty-ninth Congress”.

Subsec. (d)(3). Pub. L. 90-495, §14(b), added par. (3). Subsec. (d). Pub. L. 90-238 redesignated existing provision as par. (1) and added par. (2).

1962—Subsec. (c). Pub. L. 87-866 substituted “This system may be located both in rural and urban areas, but any extension of the system into urban areas shall be subject to the condition that such extension pass through the urban area or connect with another Federal-aid system within the urban area” for “This system shall be confined to rural areas, except (1) that in any State having a population density of more than two hundred per square mile as shown by the latest available Federal census, the system may include mileage in urban areas as well as rural, and (2) that the system may be extended into urban areas subject to the conditions that any such extension passes through the urban area or connects with another Federal-aid system within the urban area, and that Federal participa-

tion in projects on such extensions is limited to urban funds”.

1960—Subsec. (d). Pub. L. 86-624, §17(c), substituted “within the United States, including the District of Columbia, and” for “within the continental United States and”, and inserted “to the greatest extent possible” in two places.

1959—Subsec. (f). Pub. L. 86-70 repealed subsec. (f) which related to determination of roads in the Territory of Alaska on which Federal-aid funds could be expended.

Subsec. (g). Pub. L. 86-624, §17(b), repealed subsec. (g) which provided that the systems of highways on which funds apportioned to the Territory of Hawaii under this chapter shall be expended may be determined and agreed upon by the Governor of said Territory and the Secretary.

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 7(a) of Pub. L. 103-429 provided in part that the amendment made by that section is effective July 5, 1994.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by sections 1006 and 1011 of Pub. L. 102-240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as a note under section 104 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 107(c) of Pub. L. 95-599 provided that: “The amendment made by subsection (a) of this section [amending this section] shall apply to each route or portion thereof designated under section 103(e)(2) of title 23, United States Code, before January 1, 1978, the construction of which was not complete on such date, and the Secretary of Transportation shall make such revisions in existing contracts and agreements as may be necessary to carry out this section and the amendment made by subsection (a) of this section.”

Section 107(f)(2) of Pub. L. 95-599, which provided that the amendments made by section 107(f)(1) of Pub. L. 95-599 to this section apply to any withdrawal of approval before Nov. 6, 1978, was repealed by Pub. L. 96-106, §2(b), Nov. 9, 1979, 93 Stat. 796.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 110(c) of Pub. L. 93-87 provided that: “The amendments made by subsections (a) and (b) of this section [amending this section] shall take effect June 30, 1973.”

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 8(b) of Pub. L. 87-866 provided that: “The amendment made by subsection (a) of this section [amending this section] shall apply to apportionments made before as well as after the date of enactment of this Act [Oct. 23, 1962].”

EFFECTIVE DATE OF 1959 AMENDMENT

Section 21(d) of Pub. L. 86-70 provided that the repeal of subsec. (f) of this section, sections 116(d), 119, and

120(h) of this title, and sections 321a to 321d and 322 to 325 of Title 48, Territories and Insular Possessions, is effective July 1, 1959.

FUNCTIONAL RECLASSIFICATION OF HIGHWAYS

Section 1006(c) of Pub. L. 102-240 provided that:

“(1) STATE ACTION.—Each State shall functionally reclassify the roads and streets in such State in accordance with such guidelines and time schedule as the Secretary may establish in order to carry out the objectives of this section [amending this section and sections 101, 104 and 113 of this title and enacting provisions set out as a note under section 311 of this title], including the amendments made by this section.

“(2) APPROVAL AND SUBMISSION TO CONGRESS.—Not later than September 30, 1993, the Secretary shall approve the functional reclassification of roads and streets made by the States pursuant to this subsection and shall submit a report to Congress containing such reclassification.

“(3) STATE DEFINED.—In this subsection, the term ‘State’ has the meaning such term has under section 101 of title 23, United States Code, and shall include the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Marianas.”

APPORTIONMENT FACTORS FOR EXPENDITURES ON SUBSTITUTE HIGHWAY AND TRANSIT PROJECTS

Section 103(a) of Pub. L. 100-17 directed Secretary to apportion for fiscal year 1987 the sums to be apportioned for such year under 22 U.S.C. 103(e)(4) for expenditure on substitute highway and transit projects, using the apportionment factors contained in the Committee Print Numbered 100-6 of the Committee on Public Works and Transportation of the House of Representatives.

SUBSTITUTE TRANSIT PROJECTS; INCREASE IN COST TO COMPLETE; APPORTIONMENT FACTORS

Section 103(c) of Pub. L. 100-17 provided that:

“(1) INCREASE IN COST TO COMPLETE.—The cost of completing substitute transit projects under section 103(e)(4)(B) of title 23, United States Code, is increased by \$100,000,000.

“(2) APPORTIONMENT FACTORS.—Notwithstanding section 103(e)(4) of such title, funds appropriated to carry out projects as a result of enactment of paragraph (1) shall be made available in accordance with the apportionment factors contained in the Committee Print Numbered 100-2 of the Committee on Public Works and Transportation of the House of Representatives.”

COMBINED ROAD PLAN DEMONSTRATION PROGRAM; REPORT TO CONGRESSIONAL COMMITTEES

Section 137 of Pub. L. 100-17 directed Secretary, in cooperation with up to 5 States, to conduct a combined road plan demonstration to test feasibility of approaches for combining, streamlining, and increasing flexibility in administration of Federal-aid secondary program, Federal-aid urban program, and the off-system bridge, urban bridge, and secondary bridge programs and to submit to Congress an interim report on the program being carried out within 3 years after Apr. 2, 1987, and a final report evaluating the effectiveness of the demonstration program and making needed recommendations as soon as practicable after completion of the demonstration.

ROUTES WITHDRAWN; AVAILABILITY TO SECRETARY OF SUMS WHERE SUMS DETERMINED ARE LESS THAN COST OF COMPLETING WITHDRAWN ROUTES

Section 107(c)(2) of Pub. L. 97-424, as amended by Pub. L. 100-17, title I, §103(f)(2), Apr. 2, 1987, 101 Stat. 142, provided that: “Notwithstanding any other provision of law, with respect to any route or portion thereof on the Interstate System approval of which is or has been withdrawn under section 103(e)(4) of title 23, United States Code, in any case where the sum determined under subparagraph (B) of such section is less than the

cost to complete the withdrawn route or portion (in accordance with the design of such route or portion on the date of such withdrawal) as of June 30, 1980, as a result of decreases in construction costs, the sum which shall be available to the Secretary under such subparagraph shall be an amount equal to such cost of completion as of June 30, 1980.”

WITHDRAWAL OF SECRETARY'S APPROVAL OF ROUTE OR PORTION OF ROUTE ON INTERSTATE SYSTEM BETWEEN JUNE 20, 1979, AND JUNE 30, 1979, INCLUSIVE; SUBSTITUTION OF PROJECTS

Section 3 of Pub. L. 96-144 provided that: “Notwithstanding the amendment made to section 103(e)(4) of title 23, United States Code, by the preceding section, in the case where the Secretary has withdrawn his approval of a route or portion thereof on the Interstate System under such section between June 20, 1979, and June 30, 1979, both dates inclusive, the sum available to the Secretary of Transportation to incur obligations for projects substituted for such withdrawn route or portion thereof shall be a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as that cost is included in the 1975 Interstate System cost estimate, as approved by Congress, subject to increase or decrease as determined by the Secretary based on changes in the construction costs of the withdrawn route or portion thereof as of the date of approval of each substitute project under section 103(e)(4) of title 23, United States Code.”

NECESSITY OF ENVIRONMENTAL IMPACT STATEMENT PRIOR TO ROUTE CONSTRUCTION ON THE DWIGHT D. EISENHOWER SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Section 107(d) of Pub. L. 95-599, as amended by Pub. L. 101-427, Oct. 15, 1990, 104 Stat. 927, provided that: “Notwithstanding any other provision of law, including but not limited to section 103 of title 23, United States Code and this section, no route or portion thereof shall be constructed on The Dwight D. Eisenhower System of Interstate and Defense Highways with respect to which an environmental impact statement has not been submitted to the Secretary of Transportation in accordance with the National Environmental Policy Act of 1969 [section 4321 et seq. of Title 42, The Public Health and Welfare] by September 30, 1983. Any such route or portion thereof shall thereupon be removed from designation as part of such Interstate System.”

TIME LIMIT FOR COMMENCEMENT OF, OR CONTRACT FOR, CONSTRUCTION; REMOVAL FROM DESIGNATION AS PART OF INTERSTATE SYSTEM

Section 107(e) of Pub. L. 95-599, as amended by Pub. L. 97-424, title I, §107(g), Jan. 6, 1983, 96 Stat. 2103; Pub. L. 100-17, title I, §103(d)(1), Apr. 2, 1987, 101 Stat. 141, provided that: “By September 30, 1986, all routes or portions thereof on the Interstate System (for which the Secretary of Transportation finds that sufficient Interstate authorizations are available) must be under contract for construction or construction must have commenced. Immediately after such date, the Secretary shall remove from designation as part of the Interstate System each route or portion thereof not complying with this subsection.”

[Section 103(d)(2) of Pub. L. 100-17 provided that: “The amendments made by paragraph (1) [amending section 107(e) of Pub. L. 95-599 set out above] shall take effect September 29, 1986.”]

INTERSTATE SYSTEM ROUTES WITHDRAWN FOR PURPOSE OF DESIGNATING ALTERNATIVE ROUTES AS SUBJECT TO ROUTE WITHDRAWAL PROVISIONS

Section 111(b) of Pub. L. 94-280 provided that: “The amendment made by subsection (a) of this section [to fourth sentence of subsec. (e)(2) of this section] shall be applicable to each route on the Interstate System approval of which was withdrawn or is hereafter withdrawn by the Secretary of Transportation in accord-

ance with the provisions of section 103(e)(2) of title 23, United States Code, including any route on the Interstate System approval of which was withdrawn by the Secretary of Transportation in accordance with the provisions of title 23, United States Code, on August 30, 1965, for the purpose of designating an alternative route.”

INTERSTATE SYSTEM SUBSECTION (e)(4) PROVISIONS IN EFFECT PRIOR TO AMENDMENT BY PUB. L. 94-280, §110; ROUTE WITHDRAWALS WITHIN URBANIZED AREAS; AVAILABILITY OF MILEAGE IN OTHER STATES; PUBLIC MASS TRANSIT NONHIGHWAY PROJECTS; GENERAL FUNDS UNAVAILABLE FOR OBLIGATION AFTER JUNE 30, 1981; SUPPLEMENTARY FUNDS; URBAN MASS TRANSPORTATION PROVISIONS APPLICABLE

Section 103(e)(4) of this title, as added Pub. L. 93-87, title I, §137(b), Aug. 13, 1973, 87 Stat. 269, and amended Pub. L. 93-643, §125(b), Jan. 4, 1975, 88 Stat. 2290, read prior to amendment by section 110 of Pub. L. 94-280 [set out in the text] as follows: “Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw his approval of any route or portion thereof on the Interstate System within any urbanized area in that State selected and approved in accordance with this title prior to the enactment of this paragraph, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System or will no longer be essential by reason of the application of this paragraph and will not be constructed as a part of the Interstate System, and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by such route or portion thereof. The mileage of the route or portion thereof of approval of which is withdrawn under this paragraph shall be available for designation on the Interstate System in any other State in accordance with paragraph (1) of this subsection. After the Secretary has withdrawn his approval of any such route or portion thereof, whenever responsible local officials of such urbanized area notify the State highway department that, in lieu of a route or portion thereof approval for which is withdrawn under this paragraph, their needs require a nonhighway public mass transit project involving the construction of fixed rail facilities, or the purchase of passenger equipment, including rolling stock for any mode of mass transit, or both, and the State highway department determines that such public mass transit project is in accordance with the planning process under section 134 of this title and is entitled to priority under such planning process, such public mass transit project shall be submitted for approval to the Secretary. Approval of the plans, specifications, and estimates for such project by the Secretary shall be deemed a contractual obligation of the United States for payment out of the general funds in the Treasury of its proportional share of the cost of such project in an amount equal to the Federal share which would be paid for such a project under the Urban Mass Transportation Act of 1964 [section 1601 et seq. of Title 49, Transportation], except that the total Federal cost of all such projects under this paragraph with respect to such route or portion thereof approval of which is withdrawn under this paragraph, shall not exceed the Federal share of the cost which would have been paid for such route or portion thereof, as such cost is included in the 1972 Interstate System cost estimate set forth in table 5 of House Public Works Committee Print Numbered 92-29, as revised in House Report Numbered 92-1443, increased or decreased, as the case may be, as determined by the Secretary, based on changes in construction costs of such route or portion thereof as of the date of withdrawal of approval under this paragraph and in accordance with that design of such route or portion thereof which is the basis of such 1972 cost estimate. Funds apportioned to such State for the Interstate System, which apportionment is based upon an Interstate System cost estimate that includes a route or portion thereof approval of which is withdrawn under this para-

graph, shall be reduced by an amount equal to the Federal share of such project as such share becomes a contractual obligation of the United States. No general funds shall be obligated under authority of this paragraph after June 30, 1981. No nonhighway public mass transit project shall be approved under this paragraph unless the Secretary has received assurances satisfactory to him from the State that public mass transportation systems will fully utilize the proposed project. The provision of assistance under this paragraph shall not be construed as bringing within the application of chapter 15 of title 5, United States Code [section 1501 et seq. of Title 5, Government Organization and Employees], any nonsupervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable. Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended [section 1601 et seq. of Title 49, Transportation]. The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, [section 1602 (e)(4) of Title 49], shall apply in carrying out this paragraph.”

BASIS OF FEDERAL-AID SYSTEMS REALIGNMENT

Section 148(d) of Pub. L. 93-87 provided that: “Federal-aid systems realignment shall be based upon anticipated functional usage in the year 1980 or a planned connected system.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 101, 104, 115, 118, 119, 124, 139, 157, 307 of this title; title 49 sections 5309, 5323, 5327, 5331, 5338.

§ 104. Apportionment

(a) Whenever an apportionment is made of the sums authorized to be appropriated for expenditure on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, and the Interstate System, the Secretary shall deduct a sum, in such amount not to exceed 3¼ per centum of all sums so authorized as the Secretary may deem necessary for administering the provisions of law to be financed from appropriations for the Federal-aid systems and for carrying on the research authorized by subsections (a) and (b) of section 307 of this title. In making such determination, the Secretary shall take into account the unexpended balance of any sums deducted for such purposes in prior years. The sum so deducted shall be available for expenditure from the unexpended balance of any appropriation made at any time for expenditure upon the Federal-aid systems, until such sum has been expended.

(b) On October 1, of each fiscal year except as provided in paragraph (5)(A) of this subsection, the Secretary, after making the deduction authorized by subsection (a) of this section and the set asides authorized by subsection (f) of this section and section 307 of this title, shall apportion the remainder of the sums authorized to be appropriated for expenditure on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, and the Interstate System for that fiscal year, among the several States in the following manner:

(1) NATIONAL HIGHWAY SYSTEM.—For the National Highway System 1 percent to the Virgin